

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION
BUREAU OF INSURANCE

IN RE: REVIEW OF AGGREGATE)	
MEASURABLE COST SAVINGS)	
DETERMINED BY DIRIGO)	ORDER ON REQUEST FOR REMAND
HEALTH FOR THE SECOND)	
ASSESSMENT YEAR)	
)	
Docket No. INS-06-900)	

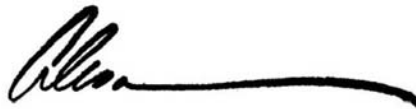
The Superintendent issues this order on Consumers for Affordable Health Care's ("CAHC") request for remand made by letter on June 30, 2006. CAHC specifically requested that the Superintendent remand the entire case to the Dirigo Health Agency Board of Directors for taking of additional evidence on outstanding issues of law and fact.

The Superintendent, as head of an executive agency, is a creature of statute and has only those powers granted to him by statute or those necessarily implied to perform his express duties. The Superintendent in this proceeding is guided by the express terms of 24-A M.R.S.A. § 6913. This section does not provide for remand in any circumstances. The statute provides that the Superintendent perform the following review: "The superintendent shall approve the [Dirigo] filing upon a determination that the aggregate measurable cost savings filed by the board are reasonably supported by the evidence in the record." *Id.* This review does not include the power of remand to the Dirigo Health Agency Board of Directors, in contrast to judicial review under the Maine Administrative Procedure Act ("MAPA") which expressly authorizes courts performing review of agency action to remand to the agency. *See* 5 M.R.S.A. § 10007(4)(B).

Furthermore, the Superintendent is expressly required to hold a public hearing complying with the MAPA and make his determination "no later than 6 weeks following the receipt of the board's determination." 24-A M.R.S.A. § 6913(1)(C). This statutory time frame is not obviated or overridden by either 5 M.R.S.A. § 9052 or by Insurance Rule Chapter 350, the legal authorities cited by CAHC in support of its request. Section 9052 provides for notice requirements that must be met by agencies holding hearings, and does not implicate the procedural possibility of remand by one agency to another. 5 M.R.S.A. § 9052. Insurance Rule Chapter 350 governs only the deviation from Chapter 350 regarding adjudicatory proceedings held by the Superintendent, and cannot and does not supersede statutory deadlines or rules regarding proceedings. 02-031 C.M.R. ch. 350 § 3(A).

Accordingly the Superintendent DENIES Consumers for Affordable Health Care's June 30, 2006 request for remand.

PER ORDER OF THE SUPERINTENDENT



DATED: July 6, 2006

ALESSANDRO A. IUPPA
Superintendent of Insurance